

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE JOINT MEMORIAL 43

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

A JOINT MEMORIAL

REQUESTING THAT THE STATE ENGINEER AND THE INTERSTATE STREAM  
COMMISSION INVOLVE MUNICIPAL, INDUSTRIAL AND AGRICULTURAL  
STAKEHOLDERS IN THE SAN JUAN RIVER BASIN IN DISCUSSIONS TO  
ADDRESS WATER ISSUES.

WHEREAS, the state engineer has statutory responsibility  
for general supervision and the measurement, appropriation and  
distribution of the state's waters and, therefore, filed an  
adjudication suit in 1976 to define all water rights within the  
San Juan river basin; and

WHEREAS, final determination of all water rights will  
relieve economic and social uncertainty to water stakeholders  
within the basin; and

WHEREAS, the state engineer is currently negotiating a  
settlement with the Navajo Nation to define the extent and

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1 nature of the Navajo Nation's water rights, which may save the  
2 state the financial burden of litigation, including saving tax  
3 dollars; and

4 WHEREAS, it is in the best interest of New Mexico to  
5 negotiate structured water rights settlements with Indian  
6 nations, tribes and pueblos whenever possible because  
7 uncertainty by water users about water rights leads to  
8 substantial litigation costs, jeopardizes economic development  
9 and promotes dissension within communities; and

10 WHEREAS, considering the length of time it takes to  
11 introduce and pass federal water legislation, it is important  
12 that the proposed settlement agreement and its companion  
13 federal legislation be introduced in 2004; and

14 WHEREAS, the state engineer and the Navajo Nation have  
15 developed a completion schedule for settlement of the Navajo  
16 Nation's water rights that includes a settlement approved by  
17 congress that will be enacted into law by October 2006 and the  
18 partial final decree entered; and

19 WHEREAS, the proposed Navajo settlement authorizes the  
20 United States to fund the construction of a pipeline to provide  
21 drinking water to areas of the Navajo Nation that lack a  
22 drinking water source; and

23 WHEREAS, the settlement provides that over a ten-year  
24 period New Mexico will contribute at least twenty-five million  
25 dollars (\$25,000,000) to a dedicated Navajo Nation water

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1 development trust fund through its share of settlement  
2 implementation costs; and

3 WHEREAS, San Juan river basin water users want to  
4 understand the relationship of the total maximum depletions  
5 resulting from the proposed settlement, final adjudication of  
6 water rights, anticipated water supply availability and the  
7 Upper Colorado River Basin Compact; and

8 WHEREAS, the available surface flow has been affected by  
9 several years of drought within the San Juan river basin, and  
10 in response to the continuing drought, the state engineer  
11 established an ad hoc committee to provide a forum for  
12 discussion and negotiation of short-term shortage sharing  
13 agreements; an agreement was reached and implemented in 2003;  
14 and

15 WHEREAS, the state engineer is drafting active water  
16 resource management regulations to establish and organize water  
17 districts, to appoint water masters and to authorize the  
18 development of water master manuals designed to meet the unique  
19 needs of a river system; and

20 WHEREAS, to the extent resources are available, the state  
21 engineer could expedite the San Juan river water rights  
22 adjudication by involving municipal, industrial and  
23 agricultural water users in the San Juan river basin, which  
24 would aid in the settlement process and in the administration  
25 of water rights within the stream system; and

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1           WHEREAS, representatives of the Navajo Nation are willing  
2 to meet with and listen to the concerns of non-Navajo water  
3 users; and

4           WHEREAS, the proposed settlement would give Gallup the  
5 opportunity to address its water rights needs, and the mayor of  
6 Gallup supports the proposed settlement;

7           NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
8 STATE OF NEW MEXICO that the state engineer be requested to  
9 begin informal processes that involve municipal, industrial and  
10 agriculture users to address, to the extent possible, water  
11 issues such as diversion and consumptive use quantities,  
12 priority and other elements that define a water right; and

13           BE IT FURTHER RESOLVED that the state engineer release all  
14 proposed active water resource management regulations relating  
15 to the San Juan river basin as soon as possible to allow  
16 stakeholders to become familiar with the future scheme for  
17 managing the San Juan river basin; and

18           BE IT FURTHER RESOLVED that the ad hoc committee continue  
19 efforts to develop short-term shortage sharing policies and  
20 agreements during the state's continued period of drought; and

21           BE IT FURTHER RESOLVED that the state legislature approve  
22 the funding commitment required for settlement of the Navajo  
23 Nation water rights prior to the submission of the proposed  
24 settlement to the adjudication court for its approval; and

25           BE IT FURTHER RESOLVED that the state engineer and the

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1 interstate stream commission report back to the appropriate  
2 interim legislative committee prior to the next regular session  
3 on the status of the San Juan river water rights adjudication;  
4 and

5 BE IT FURTHER RESOLVED that copies of this memorial be  
6 transmitted to the state engineer and the interstate stream  
7 commission.

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